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Remarks/Arguments

In the Action, the Examiner states a request for continued examination was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Applicant respectfully notes that, according to Applicant's records, no Appeal to the Board of Patent Appeals and Interferences has been filed in this application.

In the Action, the Examiner rejects claims 35-52 under 35 USC 112, stating the term "working temperature" is indefinite, and that this rejection may be overcome by clearly delineating the metes and bounds of this term.

In response, Applicant submits that one skilled in the art would understand the term "working temperature" in the context of the present claims and the application. Claim 35 indicates that a "working temperature" is below the denaturing temperature, as also discussed for instance at page 4 lines 22-30, page 7 lines 35-38 and page 11 line 10 – page 12 of the application as published as WO 00/23545. Applicant respectfully requests that the Examiner withdraw this rejection therefore.

In the Action, the Examiner rejects claims 35-52 under 35 USC 103(a) as unpatentable over Jansson et al, Norwegian Appln. No. 1993 3009, in view of Keyes, US Patent No. 4,713,335. Specifically, the Examiner states that the Jansson '3009 application teaches the present process without expressly teaching predetermining the denaturing temperature of the material, and that Keyes teaches viscosity measurements to monitor protein denaturation and/or to determine the denaturing temperature within a material. The Examiner therefore concludes it would be obvious to a skilled person to modify Jansson's process to combine Jansson and Keyes and identify the present invention.

Applicant respectfully submits that one skilled in the art would not know to prepare the present invention in view of Jansson and Keyes. The present invention is directed in part to producing a composition free of denatured proteins by predetermining a denaturing temperature of a material comprising lipids and proteins, freezing and mechanically treating the material, and then heating the material to a temperature below the denaturing temperature. As discussed for instance at page 4 lines 22-30 and page 8 lines 11-14 of the application as published as WO 00/23545, the present invention keeps material below the denaturing temperature to avoid denaturation, for instance with as high a temperature as possible without harming the functionality of the proteins.

Jansson does not describe or suggest these aspects of the present invention, but rather teaches a process focusing on low temperatures. Keyes expressly teaches away from the present invention by expressly teaching the partial denaturation of a protein to modify its activity into a different desired activity. See for instance Keyes column 4 lines 62-64, stating "the starting material native

protein is grossly denatured or unfolded to essentially destroy its native three dimensional chemical structure." The Examiner cites Keyes column 5 lines 29-35 to support the Examiner's assertion that Keyes teaches that viscosity measurements are used to monitor protein denaturation; in view of the other teachings of Keyes, one skilled in the art would not combine the express teaching of beneficial denaturation of proteins by Keyes with Jansson to prepare the present invention, which is directed in part to avoiding protein denaturation.

At least for the foregoing reasons, Applicant submits the present rejections are overcome.

Respectfully submitted,

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